



Agenda Date: 2/22/06
Agenda Item: 1B

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

CLEAN ENERGY

IN THE MATTER OF THE NEW JERSEY
SMARTSTART BUILDINGS
PROGRAMS

Adoption of Revised Smart Growth
Policy and Exemption Process to
Allow Replacement Building for
Existing Structures

Non-Docketed Matter

(SERVICE LIST ATTACHED)

BY THE BOARD:

On February 9, 1999, the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et seq. (EDECA or Act) was signed into law. One provision of EDECA, N.J.S.A. 48:3-60(a)(3), required that the Board undertake a "comprehensive resource analysis" (CRA) of existing energy efficiency policies and programs. The CRA was to include, but not be limited to, "an assessment of existing market barriers to the implementation of energy efficiency and renewable technologies that are not or cannot be delivered to customers through a competitive marketplace" N.J.S.A. 48:3-51. This directive led to the creation, consideration and assessment of a myriad of programs and technologies, ranging from the familiar energy efficiency appliance programs to new programs utilizing Class I renewable energy, defined as "electric energy produced from solar technologies, photovoltaic technologies, wind energy, fuel cells, geothermal technologies, wave or tidal action, and methane gas from landfills or a biomass facility provided that the biomass is cultivated and harvested in a sustainable manner." N.J.S.A. 48:3-51.

In its Order in BPU Docket No. EO02120955, dated March 4, 2003, the Board adopted a variety of program guidelines for both residential and non-residential Clean Energy programs. To be eligible for certain energy efficiency incentives, applicants for Clean Energy program funding are required to comply with the program guidelines set forth in that Order. One of the guidelines for Commercial Energy Efficiency Programs provides that "incentives for new construction [are] allowed only in areas designated for growth in the State Plan" and that "no incentive for building commissioning is available for buildings over 50,000ft, except for school construction."

DISCUSSION

Clean Energy Program funding for commercial and industrial customers (SmartStart) is designed to promote energy efficiency goals. However, the smart growth policy set forth above and adopted in 2003 would exclude from SmartStart funding those applicants that seek to

implement energy efficient technologies in areas not designated for smart growth. Although this promotes the goal of smart growth, it does so to the detriment of maximizing energy efficiency goals. Smart growth policy and energy efficiency goals should complement each other and be implemented in a manner that permits both policy objectives to be achieved.

Staff recommends that these objectives be achieved by modifying the policy set forth in the Board's March 4, 2003 Order, such that the replacement or expansion of buildings in an area not designated for growth, on a single parcel by the current owner who has owned the property for at least one year, would be eligible for program benefits, provided that such replacement or expansion will result in structures that, in total, no more than double the amount of square footage of the original building prior to expansion, and provided that the original building was built before March 4, 2003. New construction outside an area designated for growth that does not expand or replace an existing structure will remain ineligible for program benefits. This approach enables applicants to incorporate energy efficiency technologies in building expansions or replacements, provided that the new structures are below a certain size, thereby reconciling and balancing the objectives of the smart growth and energy efficiency. Therefore, Staff recommends that the Board adopt this approach.

Staff also recommends that the Board permit municipally owned buildings, hospitals, and/or military facilities in areas not designated for growth to be eligible for program benefits, provided they meet these same requirements. The Board's original March 4, 2003 Order expressly addressed only "commercial and industrial" applicants. Therefore, Staff recommends the Board clarify that the Order also applies to municipally owned buildings, hospitals, or military facilities in areas not designated for growth. Upon adoption of Staff's recommendation, these facilities would be permitted to seek program funding for the replacement or expansion of structures in areas not designated for smart growth, provided the expanded or replacement structures no more than double the amount of square footage of the existing building prior to expansion or replacement, and provided that the original building was constructed before March 4, 2003.

Finally, Staff proposes the Board institute a "good cause" exception, whereby the Board may grant exceptions to the foregoing requirements on a case-by-case basis, based on designated criteria. Staff proposes that an applicant must demonstrate to the Board that both of the following criteria are met to qualify for a good cause exemption:

1. The project or activity served by the expansion or replacement would improve energy efficiency by exceeding minimum building code requirements and would compliment the State's Renewable Portfolio Standard (RPS) goals; and
2. Moving to an area designated for growth, as defined in N.J.A.C. 14:3-8.2, is not economically feasible for the applicant and would result in job loss in New Jersey.

FINDINGS AND CONCLUSIONS

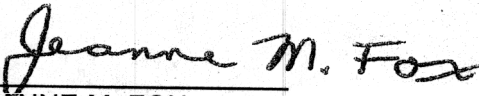
The Board HEREBY FINDS it is in the public interest to modify its March 4, 2003 Board Order in BPU Docket No. EO02120955, as set forth herein. The Board HEREBY ADOPTS Staff's recommendation that replacement or expanded buildings in areas not designated for growth be eligible for Clean Energy program benefits, provided the replacement construction or expansion will result in structures that no more than double the amount of square footage of the existing building prior to expansion or replacement, and as set forth more fully above. The Board HEREBY ADOPTS Staff's recommendation that hospitals, military facilities and municipal

buildings also be eligible for program benefits, provided that the replacement construction or expansion will result in structures that no more than double the amount of square footage of the existing building prior to replacement or expansion, as discussed herein. The Board HEREBY ADOPTS Staff's recommendation that there be a "good cause" exemption based on the criteria set forth above.

The Board HEREBY DIRECTS the OCE Staff to update the SmartStart program on its website and other media to reflect this Order.


DATED: 4/3/06

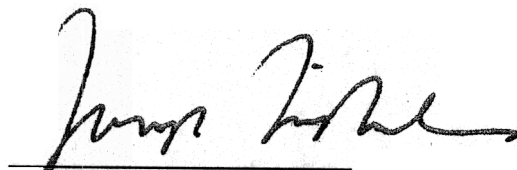
BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT

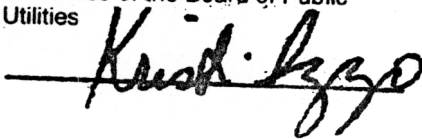


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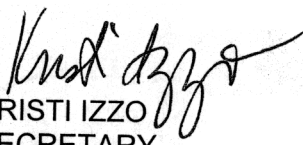
I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



I respectfully dissent from the majority's ruling on this matter because I was not fully briefed on this particular item and therefore am unable to make an informed decision on this matter. My vote is not intended in any way to reflect negatively on the Board's Clean Energy Programs.


CHRISTINE V. BATOR
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

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